

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

RANDY M MARTINEZ,

Plaintiff,

v.

CIV 14-0900 MV/KBM

COUNTY OF SANTA FE et al.,

Defendants.

**PROPOSED FINDINGS RECOMMENDING DISMISSAL OF
THE COMPLAINT WITHOUT PREJUDICE**

THIS MATTER is before the Court on the pro se Plaintiff's failure to respond to the Order to Show Cause entered February 25, 2016. *Doc. 23*. In that Order I noted that Plaintiff failed to appear at a Status Conference set for Thursday, February 25, 2016 at 3:00 p.m., that the notice of said hearing was mailed to Plaintiff at his address of record, and that there was no indication in the file that Plaintiff failed to receive notice of the Status Conference. I accordingly ordered Plaintiff to show cause why he failed to appear for the Status Conference, and to indicate whether he intends to continue with the prosecution of this case. I warned Plaintiff that if he failed to timely respond to the Order I would recommend to the presiding district judge that this case be dismissed without prejudice. *See, e.g., Nat'l Hockey League v. Metro. Hockey Club, Inc.*, 427 U.S. 639, 642-43(1976); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-30 (1962); *see also Costello v. United States*, 365 U.S. 265, 286-87 (1961) (district court may dismiss *sua sponte* for failure to comply with order of court); *United States ex rel. Jimenez v. Health Net, Inc.*, 400 F.3d 853, 855 (10th Cir. 2005) ("dismissal is an appropriate disposition

against a party who disregards court orders and fails to proceed as required by court rules.”).

Plaintiff’s response to the Order to Show Cause was due on March 10, 2016, but no response has filed as of today. There is no indication that Plaintiff failed to receive the Order. Thus, it appears that Plaintiff manifests a lack of interest in litigating this matter.

IT IS THEREFORE RECOMMENDED that this case be dismissed without prejudice.


UNITED STATES CHIEF MAGISTRATE JUDGE

THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition, they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1).

A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.